IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE GODA RAGHURAM**

**WRIT PETITION NO : 4488 of 1996**

Between:

Kumari R.Geetha Vani D/o of R.Mueiah
Working as Principal (FAC),

AP. Social Welfare Residential School, Chittoor,

Chittoor District.

**..... PETITIONER**

AND

1 The Chairman, AP Social Welfare Residential Education Institution Society, Hyderabad
2 The Secretary, AP Social Welfare Residential Education Institution Society, Hyderabad

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly a writ of Mandamus declaring the action of the respondents in not promoting the petitioner as Principal as illegal, improper, unjust, arbitrary and violation of articles 14 and 16 of the constitution of the India and further direct the respondents to promote the petitioner as Principal, AP. Social Welfare Residential School with all consequential benefits including the seniority, monetory benefits etc. , with effect from 22/05/1995.

**Counsel for the Petitioner: MR.K.G.KRISHNA MURTHY**

**Counsel for the Respondents: GP FOR EDUCATION**

**The Court made the following:**

**ORAL ORDER:**

Heard the learned Counsel for the petitioner.

Unfortunately, at hearing of the writ petition, which is of the year 1996, there is no representation on behalf of any of the respondents.

The petitioner is a post-graduate teacher working in a school under the administrative control of the A.P. Social Welfare Residential Education Institutions Society (for short 'the society'). At the time of the institution of the writ petition the petitioner was working as a Full Additional Charge Principal in one of the schools of the respondents in Chitoor.

The grievance in the writ petition is that she was not promoted as a Principal from the category of Post-Graduate Teachers (for short 'PGTs') while her juniors in the category of PGTs have been so promoted by proceedings of the first respondent dated 22-5-1995. In a Statewide seniority list of PGTs employed in the schools of the society, the petitioner claims to have been listed at Sl.No.18, while P. Girija Kumari, O. Anasuyamma and P. Godavaramma are listed at Sl.Nos. 20, 27 and 165 respectively. In the proceedings of the first respondent dated 22-5-1995, these individuals who are junior to the petitioner in the statewide seniority list of PGTs working in the schools of the society have been promoted, while the petitioner has not.

Initially, the writ petition was filed on two assumptions. Firstly, that the petitioner's qualification of "Shiksha Shastri" which is declared equivalent to B.Ed., as per

G.O.Ms.No.1613, Education Department, dated 28-6-1966 has not been so considered as equivalent by the selection authorities and therefore, she was over looked for promotion and secondly, that as she was senior to the other three individuals aforementioned, she ought to have been preferred on account of her seniority over these individuals.

In the counter affidavit filed by the second respondent it is categorically and unequivocally asserted that all the eligible PGTs including the petitioner were called for interview, but the petitioner did not fare well at the interview and therefore, was not selected for the post of Principal. It is also stated that 58 lady PGTs attended the interview, of which 32 were selected as Principals and 26 could not come up for selection. It is also pleaded in the counter affidavit that three eminent and senior officers of the State as well as a retired member of the All India Services who is on the Board of Governors of the society and who was an eminent educationist were on the selection committee and that at the selection conducted by such eminent personages the petitioner did not come up for selection. It is in summation contended by the second respondent that as promotion to the post of Principal is by the method of selection, seniority does not have a significant contribution in the selection process. The fact that the petitioner was senior to some of those selected would not in any way undermine the vitality or integrity of the selection process.

It is the admitted position that promotions to the post of Principal from the category of PGTs in the society is by the method of selection. The selection, appointments and other service conditions of Principals in the society schools are governed by Rules issued in G.O.Ms.No.1, Social Welfare (Q1) Department, dated 2-1-1987. These Rules were formulated by the Board to Governors of the society. Rule No.4 deals with the procedure for selection and it is provided that for the purpose of selection of Principals from amongst PGTs of the society, a statewide common seniority list of qualified PGTs shall be prepared and that the selection will be made through a personality test which may include personal interview as well as other methods of testing personality and aptitudes. The eligible candidates from amongst the common seniority list will be invited in the order of seniority to appear before the selection committee and the selection committee would prepare a panel of PGTs considered suitable for appointment as Principals.

In such a selection conducted in accordance with the Rules where no preference is accorded for the factor of seniority, the petitioner was evaluated along

with other PGTs and could not come up for selection. There is not even a whisper of mala fides alleged against any members of the selection board. No irregularity, irrationality, arbitrariness or perversity in the selection process is either pleaded, urged or demonstrated before this Court.

In the reply affidavit it is alleged that one of the selected candidates Girija Kumari was involved in a Criminal case and was placed under suspension by the society. This was even prior to the selection process. It is also alleged that another selected person S. Prakash Rao was placed under suspension while working as Incharge Principal and was facing a departmental enquiry as on the date of the selection. Another member E. Madhulatha is also alleged to have been awarded a punishment of stoppage of two increments and the punishment was in currency on the date of selection, but her case was nevertheless considered. Other instances were also pleaded in the paragraph No.3 of the reply affidavit illustrating cases of other candidates who were facing criminal proceedings or the departmental enquiry as on the date of the selection, but were nevertheless considered for promotion as Principals. Sri G. Krishna Murthy, learned Counsel for the petitioner urges that supersession of the case of the petitioner for promotion to the post of a Principal while considering the cases of even persons who were facing disciplinary proceedings, kept under suspension or even prosecution, constitutes an arbitrary and irrational action on the part of the respondents.

There is no general principle which disables a person who is merely facing a prosecution or a departmental enquiry to be considered for a promotion whether on a seniority or selection basis. Different employers have different regulations governing such situations. Some adopt a sealed cover procedure and some enact a disability for persons facing disciplinary proceedings from being considered for promotion unless they are absolved in the disciplinary proceedings. Other regulations prescribe a cooling period after an employee suffers a punishment after which alone he becomes eligible for consideration of further career opportunities.

In the absence of any general binding principle which disables employees facing disciplinary proceedings or prosecution from being considered, it is axiomatic that the assumptions of the petitioner that persons facing disciplinary proceedings or criminal proceedings ought not to be considered for promotion is an assumption that has no basis in law. Nothing is either pleaded, urged or demonstrated before this

Court to show that there is any binding instrument which obligates the respondents to defer the consideration of PGTs facing prosecution or disciplinary proceedings while making promotions to the post of Principal. On the aforesaid analysis none of the contentions urged on behalf of the petitioner commend acceptance by this Court.

The writ petition is without merits, invites rejection and is accordingly dismissed. No costs.

_____

29-07-2004

**es**/rar

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman, AP Social Welfare Residential Education Institution Society, Hyderabad
2 The Secretary, AP Social Welfare Residential Education Institution Society, Hyderabad

3. Two CCs to the Government Pleader for Higher Education, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.